

REMARKS

The Examiner has rejected claims 2-10, 12-23, 25-29 and 34-50 under 35 U.S.C. § 103(a) as obvious over Beelman et al., United States Patent No. 5,919,507 in combination with Koseki et al. "Decontamination of Lettuce using Acidic Electrolyzed Water", Journal of Food Protection, Volume 64, No. 5 (2001) pages 652-658. The Examiner correctly notes that Beelman '507 qualifies as a reference under 102(b) as the filing date of the instant application is March 5, 2002 and the issue date of the Beelman patent is July 6, 1999, more than one year before Applicants' filing date.

The Kosecki reference Journal of Food Protection Volume 64 No. 5 (2001), on the other hand, is less than one year before Applicants' March 5, 2002 filing date. Attached is a declaration from the undersigned evidencing the routine business practices of the Journal with respect to mailing and on-line availability. As indicated in the emails, the Journal is mailed the first of the month and nothing is available on-line prior to that time. Thus the earliest date the Kosecki reference was publically accessible. See *In re Schlitter*, 235 F.2d 882 (CCPA 1956).

Also attached herewith is a 131 Declaration made by inventors Beelman and Demirci which establishes completion prior to May 1, 2001. As evidenced in the attached 131 Declaration, the inventors have conducted an informal proof of principle experiment using electrolyzed water in the first step of a mushroom wash as claimed in claim 1 and disclosed in the specification in early April 2001. Soon thereafter a grant proposal to request funding from the United States Department of Agriculture was revised by the inventors to include this particular experimental protocol. The internal computer records of revision of this grant proposal document that this revision occurred on April 26, 2001. Thus at least as early as April 26, 2001 Applicants had completed the invention as described and claimed in the specification. Thus the

Koseki reference is not prior art and the Examiner's rejection under 35 U.S.C. § 103(a) is thereby rendered moot.

With respect to the Beelman '507 patent, there is no teaching or suggestion for the use of acidic electrolyzed water anywhere in the teachings of the Beelman '507 patent and as such, it is submitted that the obviousness rejection must be withdrawn.

The Examiner is thanked for her telephone conversations regarding this case and if it is felt that it would aid in anyway in prosecution, she is invited to contact the undersigned at the number indicated.

This is a request under the provision of 37 CFR § 1.136(a) to extend the period for filing a response in the above-identified application for three months from March 1, 2005 to June 1, 2005. Applicant is a small entity; therefore, please charge Deposit Account number 26-0084 in the amount of \$510.00 to cover the cost of the three month extensions. Any deficiency or overpayment should be charged or credited to Deposit Account 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,



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